



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/822,241

04/09/2004

Sylvester Russo

0153-1

1749

25901

7590

08/07/2006

ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

EXAMINER

DURHAM, NATHAN E

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

88

Office Action Summary	Application No. 10/822,241	Applicant(s) RUSSO, SYLVESTER	
	Examiner Nathan E. Durham	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 and 4-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/30/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over STUTZMAN (U.S. Patent 4,886,010).

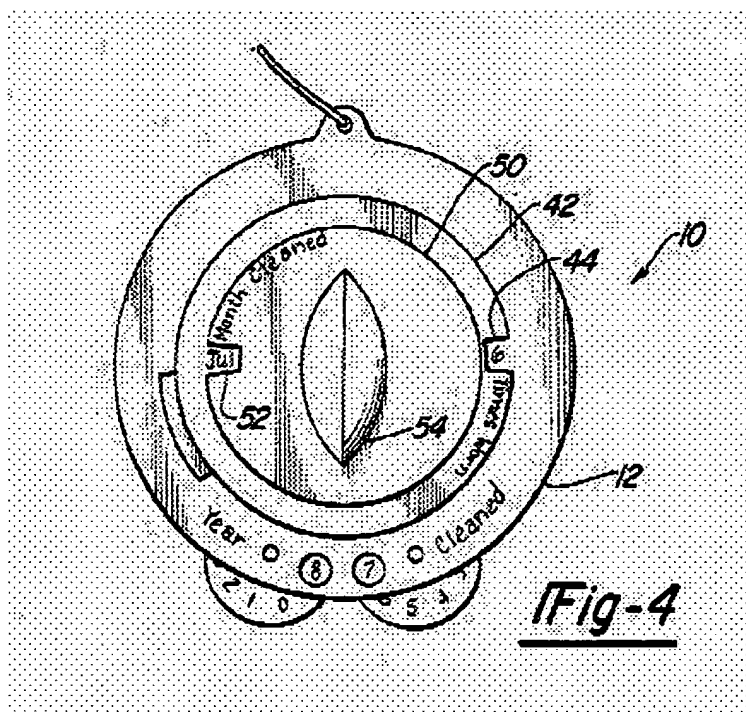
STUTZMAN discloses a thumb wheel recording system (10) capable of recording the cleaning date (52 and 42), the last wear date (26 and 22, 32 and 28) and the number of times an article of clothing has been worn (44 and 12) (Fig. 4 and Fig. 5). The cleaning date is being interpreted as a particular month and the last wear date is being interpreted as a particular year. STUTZMAN shows attachment means for permanently attaching the recording system to a clothes hanger (Col. 5, Lines 5-8; Fig.

6). STUTZMAN discloses three recording means (shown in figure below) for the purposes as discussed above. The phrases located in parts a, b and c of claim 1 following the structural statements (comprising the first recording means, second recording means and third recording means) are purely functional and provide no further structure. STUTZMAN also discloses locking means for preventing accidental alteration of recorded data. Locking means for the "last wear date" thumb wheels consists of a rivet or bolt (30) securely fastened in a corresponding aperture (32) (Fig. 5). The locking means for the "cleaning date" recording means consists of a peg (56) and numerous apertures (46) (Fig. 5). The locking means for the "times worn" recording means includes two spurs (38) and a set of corresponding notches (14) (Fig. 2A and Fig. 2B). In applicant's claim 1, lines 18-20 will not be considered because these lines only disclose functional language and provide no structure.

SUTZMAN teaches a smart hanger comprising of a thumb wheel recording system as discussed above. However, SUTZMAN fails to disclose the wheel recording system being made of a rustproof moisture resistant plastic material or any particular material. It is a common practice in the art to create such a recording system out of a material such as plastic or aluminum (each material is commonly considered rustproof and moisture resistant) because of lower costs, ease of production, longer life cycle, and to provide less weight on the system. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have produced the recording system of SUTZMAN as a rustproof plastic material to allow for easy

Art Unit: 3765

production (molded), lower material costs, longer life cycle, and less weight on the system.



Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over STUTZMAN.

SUTZMAN discloses a smart hanger system comprising a wheel recording system as discussed above. SUTZMAN teaches a second recording means, in a form of a thumb wheel, containing numeric indicia from 0 through 24. However, SUTZMAN does not disclose the second recording means comprising two thumb wheels, each of which has numerical indicia comprising numbers 0 through 9. Applicant has not disclosed that having two thumb wheels, instead of one further solves any stated problem or is for any particular purpose. Applicant has also not disclosed that having a numerical range from 0 through 9 (total range from 0 to 99 for combination of wheels)

Art Unit: 3765

solves any stated problem or is for any particular purpose besides applicant's preference. Moreover, it appears that the second recording, as taught in STUTZMAN, would perform equally well with only one thumb wheel consisting of indicia with a numerical range from 0 through 24 to allow for the user to count the number of times a garment on the clothes hanger has been worn.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the wheel recording system of STUTZMAN with two thumb wheels, each consisting of numerical indicia from 0 through 9 because it appears to be an arbitrary design consideration which fails to patentably distinguish over STUTZMAN.

Allowable Subject Matter

Claims 2 and 4-6 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record, cited on attached form, PTO-892, and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan E. Durham whose telephone number is (571)

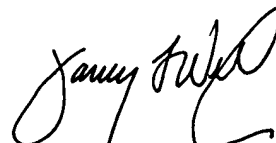
Art Unit: 3765

272-8642. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NED



GARY L. WELCH
PRIMARY EXAMINER